

FCC MAIL SECTION

Federal Communications Commission

FCC 97-287

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DISPATCHED

Before the

Federal Communications Commission

Washington, D.C. 20554

In the Matter of)	
Bell Atlantic Telephone Companies)	
Revisions to Tariff F.C.C. No. 10)	Transmittal Nos. 741, 786
Rates, Terms, and Regulations)	CC Docket No. 95-145
for Video Dialtone Service in)	
Dover Township, New Jersey)	

ORDER**Adopted:** August 14, 1997**Released:** August 22, 1997

By the Commission:

1. On January 27, 1995, the Bell Atlantic Telephone Companies (Bell Atlantic) filed Transmittal No. 741, which introduced the tariff for its commercial video dialtone service offering in Dover Township, New Jersey.¹ Fourteen parties filed petitions to reject or, in the alternative, to suspend and investigate the rates, terms, and conditions of Transmittal No. 741. The petitioners, largely cable television operators, claimed that Bell Atlantic was seeking to subsidize its video dialtone service with revenue from its telephone ratepayers, and therefore that the rates Bell Atlantic proposed to charge to video dialtone programmers would be artificially low and anticompetitive.² On June 8, 1995, Bell Atlantic filed Transmittal No. 786, proposing certain revisions to Transmittal No. 741. On June 9, 1995, the Common Carrier Bureau (Bureau) released an order initiating an investigation into Transmittal Nos. 741 and 786.³ The Bureau subsequently released an order designating issues in this investigation.⁴ By letter dated February

¹ See New Jersey Bell Telephone Co., Order and Authorization, 9 FCC Rcd 3677 (1994)(grant of Section 214 authorization).

² Petitions or opposition comments were filed by Atlantic Cable Coalition, AT&T Corporation, Cablevision Systems Corporation, Viacom, Inc., National Cable Television Association, Inc., MCI Telecommunications Corporation, New Jersey Cable Television Association, Association of America's Public Television Stations, Rainbow Programming Holdings, Inc. and by Adelphia Communications Corporation, Comcast Cable Communications, Inc., Cox Enterprises, Inc., and Jones Intercable, Inc., and by Lenfest West, Inc., LenComm, Inc., and Suburban Cable TV Co., Inc. Broadband Technologies, Inc. and Pacific Bell filed comments in support of Bell Atlantic.

³ Bell Atlantic Telephone Companies, Revisions to Tariff F.C.C. No. 10, Transmittal Nos. 741 & 786, Order, 10 FCC Rcd 10831 (Com. Car. Bur. 1995).

⁴ Bell Atlantic Telephone Companies, Revisions to Tariff F.C.C. No. 10, Transmittal Nos. 741 & 786 Order Designating Issues for Investigation, 11 FCC Rcd 2024 (Com. Car. Bur. 1995). Bell Atlantic filed an amendment

16, 1996, the Bureau's Tariff Division (Division) sought comment on the effect of the Telecommunications Act of 1996 (1996 Act)⁵ on our investigation of this tariff and Bell Atlantic's provision of video dialtone service in Dover.⁶

2. The 1996 Act repealed the telephone-cable cross-ownership restriction,⁷ repealed the Commission's video dialtone rules and policies,⁸ and established the open video system as a new means for entry into the multichannel video programming distribution market.⁹ In implementing these statutory changes, the Commission required that video dialtone systems authorized prior to enactment of the 1996 Act had to elect a transition to one of the four statutorily-recognized options for provision of video programming services by November 6, 1996.¹⁰

3. On October 17, 1996, the Cable Services Bureau approved Bell Atlantic's certification to operate an open video system in Dover.¹¹ The Cable Services Bureau granted an extension of time for Bell Atlantic to complete this transition from video dialtone service to an open video system, from November 6, 1996 to March 1, 1997.¹² In light of Bell Atlantic's recent conversion of its Dover facilities from video dialtone service to an open video system, the investigation into Bell Atlantic Telephone Companies' Transmittal Nos. 741 and 786 is moot. We therefore terminate our investigation into whether Bell Atlantic's tariff is lawful.

to its direct case on February 6, 1996.

⁵ Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996).

⁶ Bell Atlantic filed comments on March 1, 1996. MCI and Adelphia separately filed reply comments.

⁷ 1996 Act, § 601(b)(2)(repealing 47 U.S.C. § 221(a)).

⁸ 1996 Act, § 302(b)(3).

⁹ 47 U.S.C. § 573.

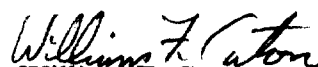
¹⁰ *Implementation of Section 302 of the Telecommunications Act of 1996 (Open Video Systems)*, First Order on Reconsideration, 11 FCC Rcd 19081, 19085 (1996). Section 302 of the 1996 Act provides that common carriers may provide: (1) video programming to subscribers through radio communication under Title III of the Communications Act; (2) transmission of video programming on a common carrier basis under Title II of the Communications Act; (3) video programming as a cable system under Title VI of the Communications Act; or (4) video programming by means of an open video system under 47 U.S.C. § 573.

¹¹ Bell Atlantic-New Jersey, Inc. Certification to Operate an Open Video System, Order, 11 FCC Rcd 13249 (Cable Serv. Bur. 1996).

¹² Bell Atlantic-New Jersey, Inc., 11 FCC Rcd 21036 (Cable Serv. Bur. 1996).

4. Accordingly, IT IS ORDERED that the issue designation order imposed by the Common Carrier Bureau, with respect to proposed rates, terms, and conditions for the provision of video dialtone service in Dover Township, in CC Docket No. 95-145, IS VACATED and the investigation IS TERMINATED.

FEDERAL COMMUNICATIONS COMMISSION


William F. Caton
Acting Secretary